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Brett P. Eddy

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC  
1420 FIFTH AVENUE  
SUITE 2800  
SEATTLE, WA 98101-2347

EXAMINER

TAKELE, MESEKER

ART UNIT

PAPER NUMBER

2175

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,443	<b>Applicant(s)</b> EDDY ET AL.	
	<b>Examiner</b> MESEKER TAKELE	<b>Art Unit</b> 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This communication is responsive to the Amendment filed 05/13/2008.
2. Claims 1-38 are pending in this application. Claims 1, 15 and 27 are independent claims. In the Amendment, claims 1, 2, 4, 8, 9-12, 15-24, and 27-36 were amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically a computer software product. Computer programs are not physical "things," nor are they statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of the invention which permit the computer program's functionality to be realized. In contrast, a claimed computer - readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory. See MPEP §2106 Section IV.B.1(a).

***Claim Rejections - 35 USC § 102***

6. Claims 1- 6, 9-14, 15-18, 20-31, 33- 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Pugaczewski et al. (US Patent No.: 6,903,755).

As to claim 1, Pugaczewski discloses in a computer system having a graphical user interface (example, graphical user interface, see abstract), a method for generating topological and management information (example, the responsibility of the Information Manager (IM) is to maintain (create and update) the vendor independent topology of the network level view, see col., 8 line, 57-60) the method comprising:

obtaining a request to generate application topological and management information corresponding to two or more sites associated with a network (example, such as the configuration manager operates to establish a connection across each subnet on the route by sending requests to element managers to program the subnet elements, see abstract)

obtaining site attribute information corresponding to the two or more sites (example, such as configuration manager 248 requests the corresponding element management layer configuration manger 252 to program the subnet element 256 (at each subnet, with the appropriate element manager) in accordance with the routing information obtained from the information manager, see col., 15 lines 61-67)

processing the site attribute information to obtain site application topological and management information (example, such as the medium further comprises instructions

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for operating a non-graphical background process for handing communication with the network management system, see col., 3 lines, 41-55); and

generating the site topological and management information on the graphical user interface (example, such as instructions for establishing a connection between the graphical user interface and the network management system, see col., 3 lines, 41-55).

As to claim 2, Pugaczewski discloses wherein obtaining a request to generate application topological and management information includes:

generating a display object on the graphical user interface, wherein the display object corresponds to a graphical control for initiating the generation of application topological and management information (example, such as the graphical interface includes at least one interface screen displaying information that directs a system user to select the first and second service access points. Further, displayed information directs, that is, provides the option to, the system user to initiate a connection build, see col., 3 lines, 9-14);

obtaining a user selection of the display object (example, such as the graphical interface includes at least one interface screen displaying information that directs a system user to select the first and second service access points, see col., 3 lines, 9-14) and generating the request to generate network information (example, such as The configuration manager operates to establish a connection across each subnet on the route by sending a request to the corresponding element manager to program the at least one subnet element, see col., 2 lines, 17-20).

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As to claim 3, Pugaczewski discloses, wherein obtaining site attribute information corresponding to the two or more sites includes obtaining directory information identifying each of the two or more sites associated with the network (example, such as the Information Manager (IM) should be able to perform a path trace which is the identification of each cross connect, and VCL, end-to-end, see col., 9 lines, 1-5).

Claims 5, 17 and 29 are similar in scope to claim 3 respectively, and is therefore rejected under similar rationale.

As to claim 4, Pugaczewski discloses, wherein processing the site attribute information to obtain site application topological and management information includes interactively identifying site connection information from the site attribute information for the two or more sites (example, such as the Information Manager (IM) should be able to perform a path trace which is the identification of each cross connect, and VCL, end-to-end, see col., 9 lines, 1-5).

Claims 20 and 30 are similar in scope to claim 4 respectively, and is therefore rejected under similar rationale.

As to claim 6, Pugaczewski discloses, wherein obtaining site attribute information corresponding to the two or more sites includes obtaining cost information for the connection information, wherein the cost information corresponds an estimated cost for transmitting data between two connected sites (example, such as the account

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manager provides information such as a profile of the current set-up of an account, current services billed for, and month-to-date billing data, col., 22 lines, 48-55).

Claims 18 and 31 are similar in scope to claim 6 respectively, and is therefore rejected under similar rationale.

As to claim 9, Pugaczewski discloses wherein generating the site application topological and management information on the graphical user interface formatting the site topological and management information for display on a software application program (example, such as network hardware from different manufacturers can be inserted into the network with minimal changes to the software which controls the devices, see col., 2 lines, 1-2).

Claims 21 and 33 are similar in scope to claim 9 respectively, and is therefore rejected under similar rationale.

As to claim 10, Pugaczewski discloses wherein formatting the site application topological and management information for display includes generating an XML data stream for rendering by the software application program (example, such as communication with various databases, passing of data to/from GUI, see col., 22 lines, 1-7 and col., 9 lines, 40-45).

Claims 22 and 34 are similar in scope to claim 10 respectively, and is therefore rejected under similar rationale.

As to claim 11, Pugaczewski discloses further comprising obtaining a request to update the site application topological and management information (example, update, see Figure 18 (element 2)).

Claims 23 and 35 are similar in scope to claim 11 respectively, and is therefore rejected under similar rationale.

As to claim 12, Pugaczewski discloses, wherein obtaining a request to update the site application topological and management information includes:  
generating a second display object on the graphical user interface, wherein the second display object corresponds to a graphical control for updating the topological and management information (example, such as the at least one interface screen includes a provision screen that directs the system user to select the first and second service access points, see col., 3 lines, 56-67 and Figure 18);

obtaining a user selection of the second display object (example, such as The graphical interface includes at least one interface screen displaying information that directs a system user to select the first and second service access points, see col., 3 lines, 9-14); and

generating the request to update the topological and management information (example, such as The configuration manager operates to establish a connection across



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each subnet on the route by sending requests to element managers to program the subnet elements, see abstract).

Claims 24 and 36 are similar in scope to claim 12 respectively, and is therefore rejected under similar rationale.

As to claim 13, Pugaczewski discloses a computer-readable medium having computer-executable instructions (example, such as the computer readable storage medium comprises instructions for determining a route made up of links over the network from the first point to the second point, see col., line, 50).

Claims 25 and 37 are similar in scope to claim 13 respectively, and is therefore rejected under similar rationale.

As to claim 14, Pugaczewski discloses a computer system having a processor, a memory and an operating environment, (example, such as processors and other network hardware, UNIX environment, see abstract and col., 9 lines, 35-36).

Claims 26 and 38 are similar in scope to claim 14 respectively, and is therefore rejected under similar rationale.

As to claim 15, Pugaczewski discloses in a computer system having a graphical user interface (example, graphical user interface, see abstract),

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a method for generating topological and management information (example, the responsibility of the Information Manager (IM) is to maintain (create and update) the vendor independent topology of the network level view, see col., 8 line, 57-60), the method comprising:

obtaining a request to generate application topological and management information corresponding to a plurality of sites associated with a network (example, such as, a plurality of sub networks or subnets, the configuration manager operates to establish a connection across each subnet on the route by sending requests to element managers to program the subnet elements, see col., 1 line, 27 and abstract);

generating site application topological and management information based upon imported site attribute information (example, such as connecting the network hardware components from various different hardware platforms to each other. When network hardware from various different hardware platforms is connected together, configuration is rather difficult. Each hardware platform typically has its own interface that is used to configure that type of hardware, see col., 3 lines, 33-39); and

generating the site application topological and management information on the graphical user interface (example, such as instructions for establishing a connection between the graphical user interface and the network management system, see col., 3 lines, 41-55).

Claim 27 is similar in scope to claim 15, and is therefore rejected under similar rationale.

As to claim 16, Pugaczewski discloses, wherein obtaining a request to generate application topological and management information corresponding to the plurality of sites includes:

generating a display object on the graphical user interface (see Figure 9 (element 200)), wherein the display object corresponds to a graphical control for initiating generation of topological and management information (example such as, receiving control commands through a graphical user interface (GUI), see col., 16 lines, 50-51) obtaining a user selection of the display object (example, such as The graphical interface includes at least one interface screen displaying information that directs a system user to select the first and second service access points, see col., 3 lines, 9-14); and

generating the request to update the topological and management information (example, such as The configuration manager operates to establish a connection across each subnet on the route by sending requests to element managers to program the subnet elements, see abstract).

Claim 28 is similar in scope to claim 16, and is therefore rejected under similar rationale.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

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matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-8, 19 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Pugaczewski et al. (US Patent No.: 6,903,755) in view of Richardson (US Patent No.: 7,146,568).

As to claim 7, Pugaczewski does not disclose wherein obtaining site attribute information corresponding to the two or more sites includes obtaining health model information for the two or more sites.

Richardson from the same field of endeavor discloses wherein obtaining site attribute information corresponding to the two or more sites includes obtaining health model information for the two or more sites (example, administrator of a network health problems associated with devices and services on the network, see abstract).

It would have been obvious to one of ordinary skilled in the art to have modified Pugaczewski's network management at the time the invention was made with health monitoring as presented by Richardson.

The motivation to combine to provide managed network health problems associated with devices and services on the network with the capability to quickly respond to and correct pending network problems before end users of the network are impacted.

As to claims 8, while Pugaczewski teaches wherein processing the site attribute information to obtain site application topological and management

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information; Pugaczewski does not teach obtaining one or more health model processing rules associated with the two or more sites; applying the site attribute information to the one or more health model processing rules and generating health model information for the two or more sites based on the application of the health model processing.

Richardson from the same field of endeavor discloses, obtaining one or more health model processing rules associated with the two or more sites (example, such as nnmrules:CPU health characteristic 312, nnmrules:Disk health characteristic 314, nnmrules:Memory health characteristic 316, see col., 11 lines, 46-60)

applying the site attribute information to the one or more health model processing rules (example, such as nnmrules:CPU health characteristic 312, nnmrules:Disk health characteristic 314, nnmrules:Memory health characteristic 316, see col., 11 lines, 46-60); and

generating health model information for the two or more sites based on the application of the health model processing rules (example, such as nnmrules:CPU health characteristic 312, nnmrules:Disk health characteristic 314, nnmrules:Memory health characteristic 316, see col., 11 lines, 46-60).

It would have been obvious to one of ordinary skilled in the art to have modified Pugaczewski's network management at the time the invention was made with rules as presented by Richardson.

The motivation to combine allows the critical event to be addressed as soon as possible in order to minimize negative impact on the end users of the network.

Claims 19 and 32 are similar in scope to claim 8 respectively, and is therefore rejected under similar rationale.

***Response to Arguments***

9. Applicant's arguments with respect to the amended claims have been fully considered but they are not persuasive.

Applicant argues that: (a) Pugaczewski et al. does not disclose, teach, or even remotely suggest "obtaining a request to generate topological and management information,"

The Examiner disagrees for the following reasons.

Per (a), Pugaczewski et al. disclose, "obtaining a request to generate topological and management information," (such as, the configuration manager operates to establish a connection across each subnet on the route by sending requests to element managers to program the subnet elements, abstract).

***Inquires***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MESEKER TAKELE whose telephone number is (571)270-1653. The examiner can normally be reached on Monday - Friday 7:30AM-5:00PM est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571) 272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Meseker Takele/  
Examiner, Art Unit 2175

/WILLIAM L. BASHORE/  
Supervisory Patent Examiner, Art Unit 2175